

## Farm Service Agency, USDA

## § 760.622

2497(g)(7)(F), where deemed appropriate, and consistent with the statutory provision. Such a determination to exercise that authority, and the terms on which to exercise that authority, will be considered to be a determination of general effect, not a “relief” determination, and will not be considered by the Farm Service Agency to be appealable administratively either within FSA or before the National Appeals Division.

### § 760.620 Time and method of application and certification of interests.

(a) Each producer interested in obtaining a SURE payment must file an application for payment and provide an accurate certification of interests. The application will be on a form prescribed by FSA and will require information or certifications from the producer regarding any other assistance, payment, or grant benefit the producer has received for any of the producer's crops or interests on a farm as defined in this subpart; regardless of whether the crop or interest is covered in the farm's SURE guarantee according to § 760.631. The producer's certification of interests will help FSA establish whether the producer is an eligible participant.

(b) Eligible participants with a qualifying loss as defined in this subpart must submit an application for payment and certification of interests by March 1 of the calendar year that is two years after the relevant corresponding calendar year for the crop year which benefits are sought to be eligible for payment (for example, the final date to submit an application for a SURE payment for the 2009 crop year will be March 1, 2011). Producers who do not submit the application by that date will not be eligible for payment.

(c) To the extent available and practicable, FSA will assist participants with information regarding their interests in a farm, as of the date of certification, based on information already available to FSA from various sources. However, the participant is solely responsible for providing an accurate certification from which FSA can determine the participant's farm interests for the purposes of this program. As determined appropriate by FSA, failure

of a participant to provide an accurate certification of interests as part of the application may render the participant ineligible for any assistance under SURE.

(d) To elect a de minimis exception to the risk management purchase requirement for a crop or crops, the participant must meet the requirements specified in § 760.613. When electing a de minimis exception, the participant must specify the crops for which the exception is requested and provide the certification and supporting documentation for that exception at the time the application and certification of interests is filed with FSA.

### § 760.621 Requirement to report acreage and production.

(a) As a condition of eligibility for payment under this subpart, participants must submit an accurate and timely report of all cropland, non-cropland, prevented planting, and subsequent crop acreage and production for the farm in all counties.

(b) Acreage and production reports that have been submitted to FSA for NAP or to RMA for crop insurance purposes may satisfy the requirement of paragraph (a) of this section provided that the participant's certification of interests submitted as required by § 760.620 corresponds to the report requirements in paragraph (a) of this section, as determined by the FSA county committee.

(c) Reports of production submitted for NAP or FCIA purposes must satisfy the requirements of NAP or FCIA, as applicable. In all other cases, in order for production reports or appraisals to be considered acceptable for SURE, production reports and appraisals must meet the requirements set forth in part 1437 of this title.

(d) In any case where production reports or an appraisal is not acceptable, maximum loss provisions apply as specified in § 760.637.

### § 760.622 Incorrect or false producer production evidence.

(a) If production evidence, including but not limited to acreage and production reports, provided by a participant is false or incorrect, as determined by the FSA county committee at any time

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after an application for payment is made, the FSA county committee will determine whether:

(1) The participant submitting the production evidence acted in good faith or took action to defeat the purposes of the program, such that the information provided was intentionally false or incorrect.

(2) The same false, incorrect, or unacceptable production evidence was submitted for payment(s) under crop insurance or NAP, and if so, for NAP covered crops, make any NAP program adjustments according to § 1437.15 of this title.

(b) If the FSA county committee determines that the production evidence submitted is false, incorrect, or unacceptable, and the participant who submitted the evidence did not act in good faith or took action to defeat the purposes of the program, the provisions of § 760.109, including a denial of future program benefits, will apply. The Deputy Administrator may take further action, including, but not limited to, making further payment reductions or requiring refunds or taking other legal action.

(c) If the FSA county committee determines that the production evidence is false, incorrect, or unacceptable, but the participant who submitted the evidence acted in good faith, payment may be adjusted and a refund may be required.

### § 760.631 SURE guarantee calculation.

(a) Except as otherwise provided in this part, the SURE guarantee for a farm is the sum obtained by adding the dollar amounts calculated in paragraphs (a)(1) through (a)(3) of this section.

(1) For each insurable crop on the farm except for value loss crops, 115 percent of the product obtained by multiplying together:

(i) The price election. If a price election was not made or a participant is eligible as specified in §§ 760.105, 760.106, or 760.107, then the percentage of price will be 55 percent of the NAP established price;

(ii) The payment acres determined according to § 760.632;

(iii) The SURE yield as calculated according to § 760.638; and

(iv) The coverage level elected by the participant. If a coverage level was not elected or a participant is eligible as specified in §§ 760.105, 760.106, or 760.107, a coverage level of 50 percent will be used in the calculation.

(2) For each noninsurable crop on a farm except for value loss crops, 120 percent of the product obtained by multiplying:

(i) 100 percent of the NAP established price for the crop;

(ii) The payment acres determined according to § 760.632;

(iii) The SURE yield calculated according to § 760.638; and

(iv) 50 percent.

(3) The guarantee for value loss crops as calculated according to § 760.634.

(4) In the case of an insurable crop for which crop insurance provides for an adjustment in the guarantee liability, or indemnity, such as in the case of prevented planting, that adjustment will be used in determining the guarantee for the insurable crop.

(5) In the case of a noninsurable crop for which NAP provides for an adjustment in the level of assistance, such as in the case of unharvested crops, that adjustment will be used for determining the guarantee for the noninsurable crop.

(b) Those participants who are eligible according to §§ 760.105, 760.106, or 760.107 who do not have crop insurance or NAP coverage will have their SURE guarantee calculated based on catastrophic risk protection or NAP coverage available for those crops.

(c) FSA will not include in the SURE guarantee the value of any crop that has a de minimis exception, according to § 760.613.

(d) For crops where coverage may exist under both crop insurance and NAP, such as for pasture, rangeland, and forage, adjustments to the guarantee will be the product obtained by multiplying the county expected yield for that crop times:

(1) 115 percent;

(2) 100 percent of the NAP established price;

(3) The payment acres determined according to § 760.632;

(4) The SURE yield calculated according to § 760.638; and